

NOT FOR PUBLICATION

APR 13 2010

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS ACUNA; MARIA DEL  
SOCORRO VILLARREAL,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 05-75878

Agency Nos. A078-654-689  
A078-654-690

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 5, 2010<sup>\*\*</sup>

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Carlos Acuna and Maria Del Socorro Villarreal, husband and wife, and natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen removal proceedings. We

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction pursuant to 8 U.S.C. § 1252. We review the denial of a motion to reopen for abuse of discretion. *De Martinez v. Ashcroft*, 374 F.3d 759, 761 (9th Cir. 2004). We deny the petition for review.

The BIA properly denied petitioners' motion to reopen because their failure to file their motion to reopen before the voluntary departure period expired rendered them statutorily ineligible for the relief they sought. *See* 8 U.S.C. § 1229c(d)(1) (imposing a ten-year bar to certain forms of relief, including cancellation of removal, for aliens who fail to depart within the time period specified); *De Martinez*, 374 F.3d at 763-64.

Contrary to petitioners' contention, the administrative record indicates that they received written warning of the consequences of failing to voluntarily depart in the BIA's April 5, 2005, decision dismissing their appeal. *See* 8 U.S.C. § 1229c(d).

Petitioners' remaining contentions lack merit.

**PETITION FOR REVIEW DENIED.**